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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JIMMY G. MEJIA,

Petitioner- Appellant,

v.

ANTHONY KANE, Warden,

Respondent- Appellee.

No. 07-15228

D.C. No. CV-06-04097-WHA

MEMORANDUM \*

Appeal from the United States District Court  
for the Northern District of California  
William Alsup, District Judge, Presiding

Submitted November 8, 2007\*\*  
San Francisco, California

Before: FERNANDEZ and McKEOWN, Circuit Judges, and KORMAN\*\*\*, Senior  
Judge.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable Edward R. Korman, Senior United States District Judge for the Eastern District of New York, sitting by designation.

Petitioner, who was convicted on his plea of nolo contendere of murder in the second degree, appeals the district court's denial of his petition for habeas corpus relief. Petitioner challenges the denial of parole on the ground that there was not "some evidence" of his continued danger to the public.

Prior cases have held that to meet the due process standard there must be "some evidence" to support a decision to deny parole. See Irons v. Carey, No. 05-15275, 2007 WL 2027359, at \*3 (9th Cir. July 13, 2007); Biggs v. Terhune, 334 F.3d 910, 915 (9th Cir. 2003). While Kane argues that clearly established Supreme Court law does not require that there be some evidence, we are in no position to overturn our prior cases. See United States v. Gay, 967 F.2d 322, 327 (9th Cir. 1992).

In this case, there is some evidence of petitioner's continued danger to the public. Petitioner has led a crime-filled life, during which he was responsible for the deaths of four people in the course of three separate crimes. The first homicide for which petitioner was responsible involved the murder of his wife. R. at 52 (explaining to the parole board that "[I] was playing around with a gun while I was drunk and shot my wife."). The next two homicides occurred when petitioner, under the influence of alcohol, sped through a red light, killing two women, one thirty-five years old and the other seventy-four. This resulted in a manslaughter conviction. While on bail for this

offense, he committed the murder for which he was convicted and the subsequent offense of being a felon in possession of a weapon.

Moreover, the Parole Board had before it evidence which concluded that petitioner continued to pose a “moderate risk for future violence.” Under the circumstances, the state court decisions rejecting petitioner’s claims were not contrary to, nor did they involve an unreasonable application of, federal law as determined by the Supreme Court. 28 U.S.C. § 2254(d).

AFFIRMED.